

October 7, 1993

MAXUS

Mr. Lance Richman
United States Environmental Protection Agency
North New Jersey Section Two
26 Federal Plaza
Suite 13-100
New York, New York 10278

Re: Passaic River Six Mile Study Area: Potentially Responsible Parties

Dear Lance:

We welcome the opportunity for the review of additional materials we have collected concerning the parties potentially responsible for the Six Mile Study Area with you and your newly appointed investigator.

We have assembled for your review summaries of information we have collected on approximately sixty additional parties, together with a sample request for information under Section 104 (e) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq. ("CERCLA"). Each of these summaries, while less extensive than the presentations we made to you on July 27, 1993, contains sufficient information both to justify the inclusion of the party on the list of those potentially responsible for the River, and to warrant further inquiry into the activities of that party. The sample request for information is modelled on requests Region II has used at other sites. Responses to this request will help develop a record to support reasoned decisions about the handling of the Six Mile Study Area under CERCLA's standards. For your convenience, we include a diskette copy of the proposed 104 (e) request in Word Perfect 5.0.

We are delighted that you are interested in pursuing inquiries in this area. I look forward to working with you to assist you in this regard.

Sincerely,



Richard P. McNutt
Project Manager
on behalf of Occidental Chemical Corporation
(as successor to Diamond Shamrock Chemicals Company)

RPM/lg

ltr-157

cc: Nicoletta Di Forte
Patricia Hick

Delmar Karlen
Carol E. Dinkins

850400001

Date

CERTIFIED MAIL--
RETURN RECEIPT REQUESTED

[NAME OF COMPANY]
[ADDRESS]

Re: Request for Information Under 42 U.S.C. § 9604 and 42 U.S.C. § 6927,
Passaic River Study Area

Dear **[NAME]**:

The United States Environmental Protection Agency ("EPA") is charged with responding to the release or threatened release of hazardous substances into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9601, *et seq.*, as amended. EPA also regulates the handling of hazardous waste under the Solid Waste Disposal Act, otherwise known as the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901, *et seq.*

EPA has documented the release of hazardous substances into the environment from and within the six-mile reach of the Passaic River between the abandoned ConRail Railroad bridge at the downriver boundary of the area located at the U.S. Army Corps of Engineers ("USACE") station designation 40+00, to a transect six miles upriver located at the USACE station designation of 35+80 (hereinafter "the Study Area"). Pursuant to Sections 104(b) and 104(e) of CERCLA, and Section 3007(a) of RCRA, EPA may request certain information from parties who handle or have handled hazardous substances and hazardous waste, as those terms are defined at Section 101(14) of CERCLA, and Section 1004 of RCRA, respectively. Section 104(b) of CERCLA enables EPA to conduct such legal and other investigations as it may deem necessary or appropriate to plan and direct response actions, to recover the costs thereof, and to enforce the provisions of CERCLA.

Pursuant to these statutory provisions, EPA hereby requires that your company answer the questions in the attached "Request for Information." The notarized signature of an officer or other responsible official of the company must appear on the enclosed "Certification of Answers to Request for Information."

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The company's response to the "Request for Information" should be postmarked or received at EPA within thirty (30) calendar days of your receipt of this letter, and should be mailed to *[NAME AND ADDRESS OF APPROPRIATE EPA OFFICIAL]*, with a copy to *[NAME AND ADDRESS OF THE APPROPRIATE EPA OFFICIAL]*.

Your company's failure to respond to the "Request for Information" within the time specified above may subject it to an enforcement action under Section 3008 of RCRA and Section 104(e)(5) of CERCLA. An enforcement action may include the assessment of penalties of up to \$25,000.00 for each day of continued noncompliance.

Be advised that you are under a continuing obligation to supplement your response with information not known or available to you as of the date of submission of your response. If at any time in the future the company has additional information and/or finds that any aspect of the submitted information is false, misleading, or misrepresents the truth, the company must notify the EPA. Failure to amend the response may be construed as a concealment. If any part of the company's response is found to be knowingly untrue, the signatory and the company may be subject to criminal prosecution.

The "Request for Information" is not subject to the approval requirements of the Paperwork Reduction Act of 1980, the relevant portion of which is found at 44 U.S.C. § 3501. If desired, the company may assert a business confidentiality claim covering all or part of the information requested. The claim must be supported by each of the four factors specified in Section 104(e)(7)(E) of CERCLA, as amended, and may be asserted at the time of submission, by placing on (or attaching to) the information, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," or "proprietary," or "company confidential." Information covered by such a claim will be disclosed by EPA only to the extent and by means of procedures set forth in Title 40, Part 2, Code of Federal Regulations, Subpart B, except that Section 104(e)(7) of CERCLA places certain restrictions on the withholding of information that is claimed confidential. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to the company.

If you have any questions about this letter, you may call *[NAME AND PHONE NUMBER OF APPROPRIATE EPA OFFICIAL]*, or *[NAME AND PHONE NUMBER OF THE APPROPRIATE EPA OFFICIAL]*. Your cooperation is appreciated.

Sincerely yours,

[NAME OF APPROPRIATE EPA OFFICIAL]
Emergency and Remedial Response Division

Enclosure

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

1. A separate response should be given for each question.
2. Precede each answer with the number of the question to which it is addressed.
3. In answering each question, identify all contributing sources of information.
4. Interpret "and," as well as "or," to include within the scope of the question as much information as possible. If two interpretations of a question are possible, use the one that requires more information in the answer.
5. The terms "document" and "documents" shall include writings of any kind, formal or informal, whether or not wholly or partially in handwriting including, but not limited to, any invoice, receipt, endorsement, check, bank draft, cancelled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack, and tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); including (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like of it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.
6. If you are unable to give a detailed and complete answer or to provide any of the information or documents requested, indicate the reason for your inability to do so.
7. If you have reason to believe that an individual other than one employed by your company may be able to provide additional details or documentation in response to any question, state that person's name, last-known address, phone number and the reasons for your belief.

8. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages, and all recipients of the document with their addresses. Describe the nature of the document (e.g., letter, file memo, invoice, billing record, etc.) and describe the relevant information contained therein.
9. Where specific information has not been memorialized in any document, but is nonetheless responsive to a question, you must respond to the question with a written response.
10. For each document produced in response to the "Request for Information," indicate on the document, or in some other reasonable manner, the question to which it applies.
11. If anything is omitted from a document produced in response to the "Request for Information," state the reason for and the subject matter of the omission.
12. As used herein, the terms "hazardous substance," "release," "facility" and "person" shall have the meanings set forth in Sections 101(14), (22), (9) and (21) of CERCLA, 42 U.S.C. §§ 9601(14), (22), (9), and (21), respectively.
13. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last-known business address and business telephone number, present or last-known home address and home telephone number, and present or last-known job title, position or business.
14. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), registered agent, organization, if any, and a brief description of its business.
15. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addresser, addresses and/or recipient, and the substance of the subject matter.

REQUEST FOR INFORMATION

1.
 - a. State the correct legal name of your company, which shall be referred to as "the Company."
 - b. State the name(s) and address(es) of the President and the Chairman of the Board, or other presiding officer of the Company.
 - c. Identify the state of incorporation of the Company and the Company's agents for service of process in the state of incorporation and in the State of New Jersey.
 - d. Provide a copy of your Company's "Certificate of Incorporation" and any amendments thereto.
 - e. If your Company is a subsidiary or affiliate of another company, or has subsidiaries, or is a successor to another company, identify the related companies. For each related company, describe the relationship to your Company; indicate the date and manner in which each relationship was established.
 - f. Identify any predecessor organization and the dates that such company became part of your Company.
 - g. Identify any other companies which were acquired by your Company or merged with your Company.
 - h. Identify the date of incorporation, state of incorporation, agents for service of process in the state of incorporation and New Jersey, and nature of business activity, for each company identified in the responses to Items 1.e., f., and g., above.
 - i. Identify all previous owners or parent companies, address, and the date change in ownership occurred.
2. In identifying a company that no longer exists, provide all the information called for in Item 1, except for the agent for service of process. If the company did business under more than one name, each name should be designated.
3. Identify the person(s) answering these questions on behalf of the Company.
4. For each and every question below, identify all persons consulted in the preparation of the answer.

5. For each and every question below, identify all documents consulted, examined, or referred to in the preparation of the answer and provide true and accurate copies of all such documents.
6. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.
7. Identify all persons, including the Company's employees, who have knowledge or information about the generation, transportation, treatment, disposal or other handling of hazardous substances at the Company's facility at *[INSERT ADDRESS OF FACILITY]* ("Company Plant").
8. State the dates during which the Company or its predecessors or successors in interest owned, operated or leased any portion of the Company Plant and provide copies of all documents evidencing or relating to such ownership, operation or lease.
9. Identify the managers and majority shareholders of the Company and the nature of their management duties and the amount of shares held, respectively.
10. Please identify and provide copies of each federal, state, county, municipal or other permit or permit application issued to or filed on behalf of the Company Plant for the discharge of any waste, wastewater, effluent or emission. If the Company has an EPA Identification Number, state it in your answer to this question.
11. Please describe in detail, and provide all documents concerning, including, but not limited to blueprints, design specifications, as-builts, drawings and maps, the physical characteristics of the Company Plant including, but not limited to the following:
 - a. Surface structures (e.g., buildings, tanks, etc.).
 - b. Groundwater wells, including drilling logs.
 - c. Past and present stormwater drainage system, sanitary sewer system, including septic tank(s) and subsurface disposal field(s).
 - d. Wastewater collection and drainage systems, including process trenches, sumps, drains and discharge points prior to as well as after entry to the treatment system.
 - e. Any and all additions, demolitions or changes of any kind to physical structures on, under or about the Company Plant, or to the property itself (e.g., excavation work) and state the dates on which such changes occurred.

12. Please identify all products manufactured, assembled, formulated or handled at the Company Plant, and for each such product
 - a. identify the time period during which it was manufactured, assembled, formulated or handled;
 - b. describe the processes used or applied to it at the Company Plant;
 - c. identify the volume of material manufactured, assembled, formulated or handled;
 - d. identify the raw materials used in the processes;
 - e. identify the wastestreams generated or by-products produced in the process of the manufacture, assembly, formulation or handling of this product.
13. To the extent not identified in response to question number 12, please describe any manufacturing process used or implemented at the Company Plant, including the time period of its use and identify the nature, chemical composition of, volume and disposition of
 - a. the materials used in the process;
 - b. the wastestreams produced; and
 - c. the products generated.
14. If any Class I, II or III dioxin precursor chemicals were used, handled, produced or stored at the Company Plant during the Company's ownership, lease or operation, please
 - a. identify the time period during which such chemical(s) was(were) used, handled, produced or stored;
 - b. identify the volume of such chemical(s) used, handled, produced or stored;
 - c. identify on a schematic of the Company Plant for the appropriate time period the locations in which such chemical(s) was(were) used, handled, produced or stored;
 - d. identify on the same schematic of the Company Plant for the appropriate time period the locations of any wastes or by-products associated in any way with any process used on such chemicals. Please include the locations of pipes and drainage systems through which such materials passed.

15. Identify the average daily volume of all wastes, wastewaters, effluent or by-products generated at the Company Plant. For each such waste:
 - a. identify the operations or processes from which such waste was produced;
 - b. identify the chemical composition of such waste;
 - c. identify the rate at which such waste was generated and the total amount generated;
 - d. identify the method and location of storage, treatment and disposal of such wastes, wastewaters or other by-products, including the dates and periods during which such method and location were used.
16. Produce all records that relate to any spills, leaks or upsets in any system at the Company Plant.
17. If there were any outfalls or drainage systems into the Passaic River on Company Plant property or if any outfall or drainage system connects Company Property to the Passaic River, please
 - a. describe fully the drainage systems connected in any way with these outfalls;
 - b. describe, if the system was modified over time, the modifications and dates of the modifications;
 - c. identify the amount and nature of materials discharged or placed into such drainage system and state the periods of time.
18. Please indicate on a diagram of the Company Plant the location of all floor drains and the location of discharge to and from these drains. Please identify all substances flowing into these drains at any point in time.
19. Please produce any environmental audit, investigation or assessment of the Company Plant.
20. Please identify any substance discharged, leaked, placed or transferred in any way from the Company Plant to the Passaic River. Please remember to include spills, surface water runoff and storm sewer drainage, if appropriate, in your answer. For each substance state the volume or amount, the chemical composition, the time period, and method by which the material was discharged, leaked, placed or transferred to the Passaic River.
21. Please produce all documents of any correspondence or communication between the Company and the Passaic Valley Sewage Commission concerning the Company Plant.

22. Please produce all documents of any inquiry, report, fine, violation, notice of violation, penalty or other administrative or judicial process concerning any potentially hazardous substances or any material potentially containing potentially hazardous substances at the Company Plant.
23. Please produce all documents concerning any underground storage tanks on the Company Plant.
24. Provide an annual summary listing each hazardous substance handled, generated, used or stored at the Company Plant during the Company's ownership, lease or operation of the Company Plant. For each such substance provide the following information:
 - a. Source and/or origin of the substance and chemical composition;
 - b. Quantity and manner in which the substance was contained;
 - c. Identify the disposition of such substances; and
 - d. If the waste was transported from the Company Plant, identify all transporters used by name, address and phone number; and provide dates of shipment.
25. Provide the names, social security numbers, last-known address, job titles, and brief job description of the employees at the Company Plant.
26. State whether there exists any agreement or contract (other than an insurance policy) which may indemnify the Company, present owners of shares in the Company or past owners of shares in the Company, for any liability that may result under CERCLA for any release of a hazardous substance from the Company Plant. If so, please provide a copy of the agreement or contract. Identify any agreement or contract that you are unable to locate or obtain.
27. State whether an insurance policy has ever been in effect which may indemnify the Company against any liability which the Company may have under CERCLA for any release or threatened release of a hazardous substance that may have occurred at the Company Plant. If so, please provide a copy of the policy. Identify any policy that you cannot locate or obtain by the name of the carrier, years in effect, nature and extent of coverage, and any other information you have.
28. Identify the acts or omissions of any persons, other than your employees, contractors, or agents, that may have caused the release or threat of release of hazardous substances at the Company Plant and damages relating therefrom and identify such persons.

29. To the extent not provided in response to previous questions, please describe all leaks, spills, releases or threats of releases of any kind into the environment of hazardous substances that occurred at the Company Plant, including:
- a. When such releases occurred or may occur;
 - b. How the release occurred or may occur;
 - c. What hazardous substances were released or may be released;
 - d. What amount of each such hazardous substance was so released;
 - e. Where such releases occurred or may occur;
 - f. Any and all activities undertaken in response to such release or threatened release; and
 - g. Any and all investigations of the circumstances, nature, extent or location of each such release or threatened release including the results of any soil waste or air testing that was undertaken.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of _____

County of _____

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that the Company is under a continuing obligation to supplement its response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or the Company's response thereto should become known or available to the Company.

NAME (print or type)

TITLE (print or type)

SIGNATURE

Sworn to before me this ____ day of
_____, 19__

Notary Public